

CITY OF ROSENBERG

COUNCIL WORKSHOP MEETING MINUTES

On this the 26th day of August, 2014, the City Council of the City of Rosenberg, Fort Bend County, Texas, met in a Special Workshop Session, in the Rosenberg City Hall Council Chamber, located at 2110 4th Street, Rosenberg, Texas.

PRESENT

Vincent M. Morales, Jr.	Mayor
William Benton	Councilor at Large, Position 1
Cynthia McConathy	Councilor at Large, Position 2
Jimmie J. Pena	Councilor, District 1
Susan Euton	Councilor, District 2
Dwayne Grigar	Councilor, District 3
Amanda Bolf	Councilor, District 4

STAFF PRESENT

Robert Gracia	City Manager
Scott M. Tschirhart	City Attorney
Linda Cernosek	City Secretary
John Maresh	Assistant City Manager of Public Services
Jeff Trinker	Executive Director of Support Services
Joyce Vasut	Executive Director of Administrative Services
Travis Tanner	Executive Director of Community Development
Tonya Palmer	Building Official
Karl Zwahr	Utilities Superintendent
James Lewis	Director of Technology
Dallis Warren	Police Chief
Wade Goates	Fire Chief
Darren McCarty	Parks and Recreation Director
Randall Malik	Economic Development Director
Jeremy Heath	Assistant Economic Development Director
Lisa Olmeda	Human Resources Director
Kaye Supak	Executive Assistant

During a City Council Workshop, the City Council does not take final action on the agenda items and any consideration of final action will be scheduled at a Regular or Special City Council Meeting. Public comments are welcomed at Regular or Special City Council Meetings. No public comments will be received at a Workshop Meeting.

The City Council reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by Title 5, Chapter 551, of the Texas Government Code.

CALL TO ORDER.

Mayor Morales called the meeting to order at 6:30 p.m.

AGENDA

- HEAR AND DISCUSS A PRESENTATION BY JESS STUART, EXECUTIVE DIRECTOR OF THE T.W. DAVIS YMCA REGARDING THE PARTNERSHIP FOR OUTREACH SITES BETWEEN THE T.W. DAVIS YMCA AND CITY OF ROSENBERG, AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.**
Executive Summary: This item has been included on the Workshop Agenda to offer City Council an opportunity to discuss the partnership between the T.W. Davis YMCA and the City regarding the Outreach programs offered at Taylor Ray, Meyer and Jackson Elementary schools in Rosenberg with Jess Stuart, Executive Director of the T.W. Davis YMCA.

Key discussion points:

- Darren McCarthy, Parks and Recreation Director gave a brief overview of the item. Jess Stewart, Executive Director of the T.W. Davis YMCA was present at the meeting to make a presentation to Council. We did three outreach sites this year at the schools and those not at the schools are serving

all Rosenberg children.

- Jess Stewart provided an overview of the present program and the future programs. He outlined each school and how many children are served at each.
- The City of Rosenberg donates \$10,000 to the two sites within the City. It takes \$305,000 to fund 1585 children in the programs.
- Council thanked Darren McCarthy for presenting this as partnership to the City and thanked Jess Stewart for the presentation.
- No action was taken on the item.

2. **REVIEW AND DISCUSS COUNCIL MEMBER TERM LIMITS, AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.**

Executive Summary: This Agenda item was requested to provide City Council the opportunity to discuss potential term limits for the Mayor and Council Members.

Key discussion points:

- Councilor McConathy stated she added the item to give Council Members the opportunity to discuss term limits. To provide some direction for the discussion there are two key points we should consider as we open this up. One is the term duration as well as the maximum years a Council Member can serve in that term. The former Council including Mayor, Councilors Benton, Grigar and she talked about two years, three years and four years as a term and also the duration whether that means two or three – two year terms or two-three year terms or two-four year terms. We are starting fresh with a new Council. She asked Council to keep those two points in mind during discussion on what we want term limits to look like as we present it to the voters in May as a Charter change.
- Councilor Euton asked if we need to spell it out ahead of time or do we want to leave it open like previously on the staggered terms but the "how to" was not part of the amendment that the voters saw.
- Scott Tschirhart, Attorney for the City explained that is a bit of a misconception. On February 19, 2013, Council passed Ordinance 2013-10 that laid out specifically which Council positions would be staggered and how it would be staggered. The voters saw a caption which is typical in a Charter election. The caption tells them what this is going to do. If you have a lot of amendments it could be confusing for a voter. The City generally publishes what it will do to the Charter and in this case it was published in the newspaper in English and Spanish and on the website. A copy of what this amendment was going to do was mailed with the water bills to educate the public. The Ordinance was passed prior to the Charter election.
- Councilor Euton asked if we change terms to three years what will that do to our staggering?
- Scott Tschirhart said it complicates things. The election that comes up in May has to follow the rules in the Charter currently. We will have some terms expiring one year out and some terms two years out. To go to a three year term we can make that work but it will require a Charter amendment to balance everything out. It would have to be approved by the voters.
- Councilor Euton said she is in favor of three year terms but she feels it would be too confusing to the voters. Two years is simpler and a four year maximum term in one position should be the limit.
- Councilor Pena stated it is confusing and we already have the staggered years. District 1, 2, 3 and 4 have to run one year concurrently. It is two years to catch up the at-large and mayor. He agrees with Councilor Euton. He thinks a three year term would be a good gauge. He suggested two – three year terms. He favors the three year term but if it stays at two, then he favors two – two year terms.
- Councilor Grigar stated he thinks we already have term limits and that's an election every two years. Term limits are good in certain cities. He does not think it is a good thing for Rosenberg at this time until we grow. It is hard to get volunteers for committees. He is not for term limits at this time.
- Councilor Bolf agreed with Councilor Grigar to a point. We do have elections but when people are there a long time they will not step-up and run against an incumbent. She would suggest three – three year terms.
- Councilor Benton stated he believes in term limits. He likes the four – two year terms. This is a Charter change issue and a Charter change committee should see what the voters want.
- Councilor McConathy stated in the previous discussion we complicated it in separating the mayor position from Council positions and staggering and terming it in that fashion. It sounds like the consensus is for term limits, that it would be broad across all positions and that the term would apply to everyone equally. She favors the three year. It will require another Charter change but we are going to be creating a Charter change by implementing this proposal. When we had the discussion about staggered terms we talked about the complication at the ballot in helping the voters to understand what staggering meant versus a term limit. It was decided at that time to separate staggering from the term limits. The voters decided for staggering so now if we stand by the three year term then we need

to make the staggering work with that term limit. You can't discuss one without impacting the other. She prefers the three year with a maximum of two terms.

- Councilor Bolf said it would need to be position specific. She would agree with the two – three year terms if no one else went with the three – three year terms.
- Mayor Morales stated going back to the last Council, he proposed three year terms. He is not opposed to having three year terms. We weren't sure of the term limits at that time. He agrees with what Councilor Grigar says but he doesn't have a problem with what the voters want. The voters make that decision. If you go back to the minutes several years ago, he proposed three year terms but no one agreed to it.
- At this point we need to form a Charter Review Committee to determine which items will be on the Charter.
- Councilor Grigar commented that he thinks there needs to be a standing Charter Review Committee that looks at the Charter every two years because you can only change the Charter every two years. The standing committee needs to be formed and look at all of the Charter in detail, taking it a little at a time with the most important areas and add that to a referendum every two years.
- Mayor Morales asked how this committee would be made up.
- Councilor Pena stated since there has been a committee we need to move on this term limit and get it done. If we do the three – two year terms move forward with it. He agrees that a committee would be good that could look at other items as they come up, but feels we should move on the term limit item now.
- Councilor McConathy stated in order to form a committee we would have to set aside some budget funds for staff and those meetings. She suggested we look at adding dollars to our budget this year or maybe next year so the committee can be formulated and begin work to scrub the Charter as a whole.
- Joyce Vasut recommended that if we are going to change the budget we first pass our FY2015 budget next week and then we can come back with a budget adjustment in the future.
- Mayor Morales asked legal counsel how we would work out the staggering we have in place in 2015 and if we go to three year terms going forward?
- Scott Tschirhart stated it will be complicated. Two year terms are what the staggering is predicated on and it works well that way. A three year term can complicate this pretty dramatically. A Charter amendment can change things in a perspective but it will not change anything coming up in the May elections. It could change the next election cycle.
- Mayor Morales stated presently it reads you have the Mayor and the two At Large positions that will have two year terms and then the District seats have a one year term. Starting in 2016 the Districts would be for three years.
- Scott Tschirhart stated that is a potential way to do it but that would be the earliest you could affect a City election - May 2016. If you did a Charter amendment to go to three year terms you could start those three year terms at that time in 2016. Term limits would have to be prospective and it would not count anything that has already been served.
- Mayor Morales stated there is a general consensus of wanting to move forward with two – three year terms. Legal counsel needs to come back to Council with what that Charter change would be.
- Scott Tschirhart stated there is another issue that comes up with this. The Texas Constitution says no city charter shall be altered, amended or repealed oftener than every two years. There is an Attorney General opinion out there that says – you have an election on May 9th of this particular year and then two years later the election is to be held on May 4th that that is too short and you can't do the two years that way. Our office takes the opinion that the charter amendment doesn't take place until the city adopts it and it could be adjusted further out. But, that Texas Attorney General opinion is out there. In this case, the second Saturday in May is May 9th which would be before the May 11th election less than two full years we had in May 2013. It could be declared that it is oftener than two years because of these few days that would make is less than two years.
- Mayor Morales said so the change could not happen until May 2016.
- Scott Tschirhart stated it is possible or there could be a special election. There is a variety of ways we could work it out. He wanted to make Council aware that there is a potential we may not be able to do it at the May 2015 election to change the charter again.
- Legal counsel will bring it back to Council to be discussed and voted on.
- Councilor Grigar stated since the charter can't be changed except every two years we will miss the boat if there are other changes that need to be made. Could staff research to see if there are any important issues that may need to be added to that?
- Scott Tschirhart stated it does not work that way, it's just that we can't amend it oftener than every two years. He suggested that at any charter election we try to handle as much as we can identify at the same time because it does change the constitution of the City.

- Robert Gracia stated staff will check on that.
- No action was taken on the item.

3. **REVIEW AND DISCUSS CITY COUNCIL STAGGERED TERMS AND THE ORDER OF POSITIONS FOR ELECTION, AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.**

Executive Summary: This Agenda item was requested to provide City Council an opportunity to discuss staggered terms and the order of positions for election for the Mayor and Council Members.

Key discussion points:

- Councilor Benton stated his concern is eventual lower voter turnout with the way these staggered terms are setup now. He thinks it would be beneficial when we go through this process to look at that. He feels it would be beneficial to have at least one at-large position in every election. It would be good to have a committee of citizens look at this and make suggestions.
- Scott Tschirhart stated he was asked to research this and check on how it came to be that an ordinance had changed the charter. In looking at Ordinance 2013-10 this is Proposition 2. Staff provided Council a copy. On the second page under Proposition 2 you see the caption that appeared on the charter election and underneath you see what the strikeout would have been changing Section C and what was added to Section C. This is what was approved by the voters. This was done by Ordinance on February 19, 2013 to be set before the voters in the 2013 May election.
- Councilor Benton stated for clarification the verbiage in C was not on the ballot. He said it was not approved by the voters but the Proposition was.
- Scott Tschirhart stated that is correct. The Proposition was approved by the voters.
- Mayor Morales stated the information was out there to the voters prior to the Proposition.
- Scott Tschirhart stated when the Proposition was passed that carried over and was placed into the Charter. The language is identical to what was in Proposition 2 that came out of this particular ordinance. That is why there is a reference to the Ordinance in the Charter. The Ordinance didn't modify the Charter it was the will of the voters that modified the Charter.
- Mayor Morales stated we would have to devise a plan because in 2015 it will be three at-large positions for two years and the districts for one year.
- Scott Tschirhart said it would be a complex way of going about it but we could figure out a way to do it. An elected official doesn't have a property right in their elected office so we don't have those kinds of issues to deal with. If we wanted to change that around and take at-large positions, it would be a complicated process because you would have to setup some at large positions with staggered to make it work out, but it can be done.
- Mayor Morales stated that all of Sugar Land's At-Large positions are at one time and then the districts at another time. He does not have a problem with it but how do you derive that?
- Scott Tschirhart stated we need to consider how this affects us from potential litigation standpoint from the Voting Rights Act because we had to go to geographical districts for that purpose. That analysis will have to be a part of this program because we don't want to draw another voting rights suit.
- Mayor Morales stated he had to deal with LULAC on this last staggered terms. We would have to involve LULAC as well in this. A lot of this was based on what they wanted too.
- Mayor Morales stated we have a request for three year terms with a limit of six years and wanting to move an at-large position into the staggering mix and engage LULAC in this entire process.
- Councilor Euton stated if we mix it she would suggest that District 1 be moved with the mayor and at-large because they had the lowest percentage of voter turn out.
- Mayor Morales stated that is a good suggestion.
- Scott Tschirhart stated they can start on it but it is not something that he can come back to Council with until another workshop and not at the next Council meeting.
- No action was taken on the item.

4. **REVIEW AND DISCUSS PROPOSED AMENDMENTS TO SECTION 6-367 OF THE CODE OF ORDINANCES PROVIDING RULES AND REGULATIONS GOVERNING THE PAINTING OF STREET NUMBERS ON CURBS, AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.**

Executive Summary: On April 01, 2014, and April 22, 2014, City Council held discussions regarding the potential of amending the City's curb-painting regulations to include the Texas flag.

This item has been added to the Agenda to offer City Council the opportunity to discuss the potential amendment of the rules and regulations governing the painting of street numbers on curbs. You will find a copy of the current Code Section 6-367 which was included in the agenda packet.

Key discussion points:

- Councilor McConathy stated this was an item previously discussed and we reached a consensus that this was something we should bring back after budget discussions. We are talking about amending the current ordinance to include the painting of the Texas flag. She requested that the Attorney look at this because there was an opinion formed before and she wanted to make sure we were not violating anybody's first amendment rights.
- Scott Tschirhart explained the first amendment analysis is somewhat complex because there are varying levels. In this particular case, the City owns the curb. The City can send its message on the curb without having to worry too much about a first amendment issue unless the City were to decide to put a cross or other religious symbol. We can't endorse a particular religion or faith. In the case of placing a Texas flag on the City's curb in that it really doesn't implicate a first amendment issue because it is not taking a stance on something that is discriminatory. We all live in Texas. We could take the City seal and put it on the curb. However, he understands the former City Attorney's issue with allowing flags. If we were to allow different flags on there you are creating at that point not a speech that belongs to the City but you opening up a public forum. When you open up a public forum then you implicate first amendment issues and everybody gets to have their speech in there.
- A few years ago in Amarillo, Texas they decided they wanted to put advertising on patrol cars much like you see in NASCAR. The problem is when you open up a public forum like that you can't restrict any legal product from using that forum when it is a public property such as a patrol car or in this case a curb. We don't want to open it up for advertising because then you can't restrict what was put on there. If Council decides they want to put a flag on the curb and it doesn't interfere with any public safety issue, there is no reason the Council can't do that as long as it is the City's speech and we don't open it up to a public forum.
- Discussion was held regarding the painting of the Texas flag with the numbers on the curb. Council needs to define what will be allowed without giving any options. If options are allowed it opens it up to a public forum.
- After discussion, Wade Goates, Fire Chief volunteered to design the Texas flag with numbers for Council to view. The design will be brought back to Council for review and discussion.
- No action was taken on the item.

5. **REVIEW AND DISCUSS AVENUE I, AVENUE H, AND DOWNTOWN ROSENBERG UTILITY RELOCATION, AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.**

Executive Summary: On August 08, 2014, the City Manager received correspondence from the Texas Department of Transportation (TxDOT) providing notice of a road project that will include US 90A (Avenue H) and FM 1640 (Avenue I) from Spur 529 to Millie Street. The project is scheduled for a December 2014 letting. Per the correspondence, the City will need to take the appropriate action to relocate or replace underground utility lines that may be impacted by the project.

The City recently completed a sanitary sewer line replacement project along Avenue H, Avenue I and the Downtown area of the City within the limits of the TxDOT project. The City does have numerous water lines located underneath the pavement, particularly along Avenue H. The lines have exceeded their life expectancy and numerous leaks have been repaired. In addition, several fire hydrants along Avenue H near the Downtown area have been damaged and not replaced due to their close proximity to the traffic lanes and the lack of main line valves that prevent the water from being turned off in order to make the needed repairs. It would be most cost effective and in the best interest of the City to replace the deficient water lines in this general area prior to the TxDOT project. This would improve the reliability of the water distribution system, increase system capacity and improve fire protection.

This item has been placed on the Agenda to offer City Council the opportunity to discuss the need to replace the water lines and direct staff as necessary.

Key discussion points:

- John Maresh, Assistant City Manager of Public Services read the Executive Summary regarding the item.

Questions/Comments:

Q: This needs to be done before the letting of the contract. Will there be Mobility Funds available to do this project?

A: There will be \$1.5M from Mobility Funds.

Q: Will upsizing those lines help our rating?

A: Yes, with the subsidence issue mandate and to help push the water through.

Q: During discussion of the one-way pairs project replacing the water lines was not a part of the project was it?

A: We had discussion regarding replacement of the sewer lines first. That was a great concern at that time. We just received the information from TxDOT and we need to act on this.

Q: The expense of the project will be more than we have for this. Will we have to do a bond on this?

A: With the mobility funds and some other funds available we should be able to cover it.

- The general consensus of Council was to move forward and bring the item back to Council at the next regular meeting.
- No action was taken on the item.

6. **REVIEW AND DISCUSS THE PARKS GROUNDS MAINTENANCE CONTRACT, AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.**

Executive Summary: This item has been included on the Workshop Agenda to offer City Council an opportunity to discuss the Parks Grounds Maintenance Services currently being provided for Brazos, Community, Harwood and Riverbend Parks was included in the agenda packet. A draft of the redlined Technical Specifications as proposed by staff? If so directed by City Council, staff will issue an invitation to bid on Sunday, August 31, 2014, for these services in order to receive and review responses and select a firm before October 02, 2014, when the current Contract ends.

Staff recommends issuing an invitation to bid for Parks Grounds Maintenance Services.

Key discussion points:

- Darren McCarthy gave an overview of the item regarding the Parks Grounds Maintenance Services.

Questions/Comments:

Q: Is this the same contract as for the cemetery?

A: No, it is specific to the Parks.

Q: Was the goal to eventually do no more in-house mowing with staff?

A: In 2009 we had some slow downs, the City Manager asked us to look at some cost savings areas. These parks were not as heavily used and we sent staff in a couple of times a week to mow. It is more economical to subcontract it out and is the most economical way to do it.

Q: How do bidders get to bid on the contracts?

A: Bidders are encouraged to check the City website the first week of September. It will be posted there.

- Scott Tschirhart stated an addendum has been drafted to be used for contracts like this and he advised Council to include that addendum. The addendum protects the City because it clearly lays out the relationship which isn't laid out in this contract.
- The addendum will be added and brought back when the bids are brought back.
- No action was taken on the item.

7. **REVIEW AND DISCUSS THE SEABOURNE CREEK REGIONAL SPORTS COMPLEX GROUNDS MAINTENANCE CONTRACT, AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.**

Executive Summary: This item has been included on the Workshop Agenda to offer City Council the opportunity to discuss the Grounds Maintenance Services currently being provided at Seabourne Creek Regional Sports Complex (SCRSC). The mowing and maintenance of the sports fields is a specialized process that requires specialized equipment in order to keep the fields in prime playable condition.

For City Council's review, a draft of the Technical Specifications as proposed by staff was included in the agenda packet. If so directed by City Council, staff will bid the services for FY2015 and issue an invitation to bid on August 31, 2014, in order to receive responses and select a firm before October 16, 2014, when the current Contract ends.

Staff recommends issuing an invitation to bid for SCRSC Grounds Maintenance Services.

Key discussion points:

- Darren McCarthy gave an overview of the item regarding the bid for SCRSC Grounds Maintenance Services.
- The general consensus of Council was to move forward and have the contract go out with the addendum attached as on the previous item.
- No action was taken on the item.

8. **REVIEW AND DISCUSS THE PARKS JANITORIAL SERVICES CONTRACT, AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.**

Executive Summary: The Parks Janitorial Services Contract for City facilities includes the restrooms and certain public areas at Brazos Park, Community Park, Macario Garcia Park, Riverbend Park, Seabourne Creek Nature Park, Seabourne Creek Regional Sports Complex, Sunset Park, Travis Park and 3720 Airport Avenue. This item has been included on the Workshop Agenda to offer City Council the opportunity to discuss these services. If so directed by City Council, staff will bid the services for FY2015 and issue an Invitation to Bid on August 31, 2014, in time to receive responses and select a firm for an October 09, 2014 effective date. The draft Technical Specifications as proposed by staff are attached for City Council's review.


Staff recommends issuing an invitation to bid for Parks Janitorial Services for the restrooms and certain public areas at Brazos Park, Community Park, Macario Garcia Park, Riverbend Park, Seabourne Creek Nature Park, Seabourne Creek Regional Sports Complex, Sunset Park, Travis Park and 3720 Airport Avenue.

Key discussion points:

- Darren McCarthy gave an overview of the item regarding the Parks Janitorial Services.
- The general consensus of Council was to move forward with the addendum attached as in the previous items

9. **ADJOURNMENT.**

There being no further business Mayor Morales adjourned the meeting at 8:07 p.m.



Linda Cernosek, TRMC, City Secretary